<center>**Remark**</center>

Claim 1 has been amended. There are no new claims. There are no canceled claims. Therefore, claims 1-26 are present for examination.

<center>**35 U.S.C. §103 Rejection**</center>

<center>*Schein in view of Morrison*</center>

The Examiner has rejected claims 1-5, 7, 9-19, 21-22 and 25 under 35 U.S.C. §103 (a) as being unpatentable over Schein et al., U.S. Patent Application No. 2006/0168620 ("Schein") in view of Morrison, U.S. Patent No. 6,359,580 ("Morrison"). (Applicants note with respect to Schein that while the published application suggests an early priority date, it is not certain that the specification has not been altered in the ten years between the first and the current filing dates. A more appropriate reference would be U.S. Patent No. 5,801,787.)

In Schein, the user has a "When Else" key or button. After selecting a program, the user can select "When Else," and other broadcast times are displayed. The user can then select to watch, record, etc any of the displayed choices. In Morrison, after a user inputs an ambiguous channel number, the different broadcasters that use the same channel number are displayed. The user can then select the appropriate broadcaster. Alternatively, there can be a programmed default broadcaster to use whenever the same channel number is used by more than one broadcaster. This is reminiscent of the disambiguation pages used at www.Wikipedia.org.

Referring to Claim 1, a program is selected, not a channel, then "a set of characteristics of each respective version of the same selected entertainment program" is identified. This means that each program has multiple characteristics. Claim 1 also

recites, selecting "by comparing the identified characteristics." As mentioned above the identified characteristics are multiple characteristics for each program.

Neither reference suggests making a selection of one of the programs by comparing multiple characteristics for the programs to user preferences. In Schein, the user makes the choice. In Morrison there are no programs, the selection is between different networks, or broadcasters and there is only one characteristic used, the network or broadcaster name.

The proposed combination takes the two references out of context destroying the functions of the teachings in the reference. The Examiner relies upon Schein to show selecting a program and determining characteristics of the program. However, these functions have nothing to do with user preferences or with selecting the program. The Examiner relies on Morrison for selecting a program, but Morrison's selection has nothing to do with the characteristics of a program. Morrison uses a single characteristic of a channel number. In other words, the references provide no connection or nexus between the program characteristics and the automated selection. There is no teaching or suggestion in the cited references to make such a combination.

Even ignoring the missing connections between the teachings of the references, the Examiner suggests that it would be obvious to adapt Schein to use the default selection of Morrison. In Schein the issue is viewing times and it would be difficult to program in a default viewing time. This would have to depend on the day, the time of day, and the user's schedule. It would be difficult, if not impossible, for a user to program in a consistent preferred later viewing time for "When Else.". A little later might interfere with dinner, or it might not. Much later might be better for recording, but

too late for viewing. Accordingly, there is no motivation to add a default viewing time to Schein. This goes beyond the teachings of either reference.

In addition, Morrison is insufficient to provide the combination. Any workable automation would require significant additions to Morrison and Schein to accommodate user schedules, preferred sources, and the reason for the later time (e.g. viewing or recording). Morrison simply fails to provide any of these additional teachings.

Morrison is not concerned about selecting programs, but about selecting sources for channel numbers. It is not so difficult for a user to prefer satellite over cable, or satellite over terrestrial broadcast for picture quality, or cable or terrestrial broadcast over satellite for price. However, Morrison does not help to select a particular version of a program and there is nothing to suggest such a thing. It is extremely unlikely, that channel number 105 broadcasts the same show at any one time for DSS, for cable and for NBC. Cable and satellite broadcasters, as a rule, use different channel numbers for the same network and these almost always differ from the terrestrial radio channel numbers.

In brief, the proposed combination requires teachings or suggestions that are not in the references. Schein and Morrison are combinable because they are directed at different problems. Such a combination would allow a user to disambiguate redundant channel numbers when selecting a channel and would allow a user to see other broadcast times for a particular show. The suggestion that Morrison would lead a person of average skill to add automatic alternative broadcast time selection to Schein simply goes far beyond anything suggested in either reference.

While the remarks above are directed to Claim 1, all of the other claims are believed to be allowable on the same grounds.

The Examiner refers to Rosser (U.S. Patent No. 6,466,261) for Claims 6 and 20 and similar claims that relate to comparing multiple characteristics to multiple user preferences to select the program. Examiners do not see any explicit suggestion of this in Rosser. Instead Rosser takes a large number of factors to select an appropriate product to advertise. Even if advertisements were entertainment programs, there is nothing in Rosser to suggest selecting among different versions of the same advertisement for presentation to the viewer. Accordingly, these claims are also believed to be allowable above and beyond the reasons discussed above.

Conclusion

Applicants respectfully submit that the rejections have been overcome by the amendment and remark, and that the claims as amended are now in condition for allowance. Accordingly, Applicants respectfully request the rejections be withdrawn and the claims as amended be allowed.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.
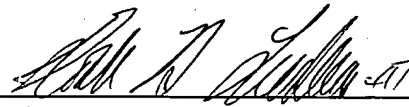
Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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